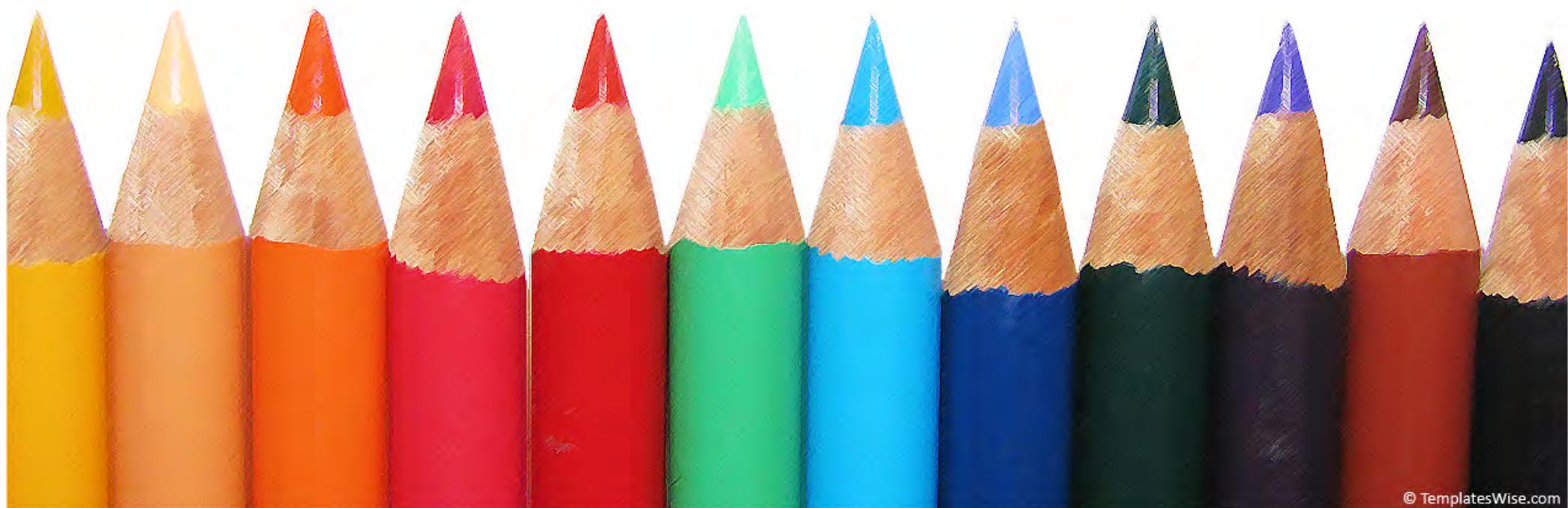


Charter School Legal Issues

Arkansas Department of Education
New Charter Application Workshop
Presented by:
Jennifer Davis, ADE Staff Attorney



Three Key Principles

Be careful what you promise.



Ask not, receive not.



Ignorance of the law is no excuse.

Be careful what you promise.



**ARKANSAS
DEPARTMENT
OF EDUCATION**

**Open-Enrollment Public Charter School
New Application**

Deadline for Submission: August 31



Charter School: _____
Date Submitted: _____
Date Approved: _____

Arkansas Department of Education
Charter School Office
Four Capitol Mall, Room 105-C
Little Rock, AR 72201
501.683.5313

Charter Amendments

“Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.”

Ark. Code Ann. § 6-23-104 (b).



Charter Compliance

“The authorizer may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if ... the persons operating the public charter school ... [c]ommitted a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter.”

Ark. Code Ann. § 6-23-105.



Ignorance of the law is no excuse.



Ignorance of the law is no excuse.

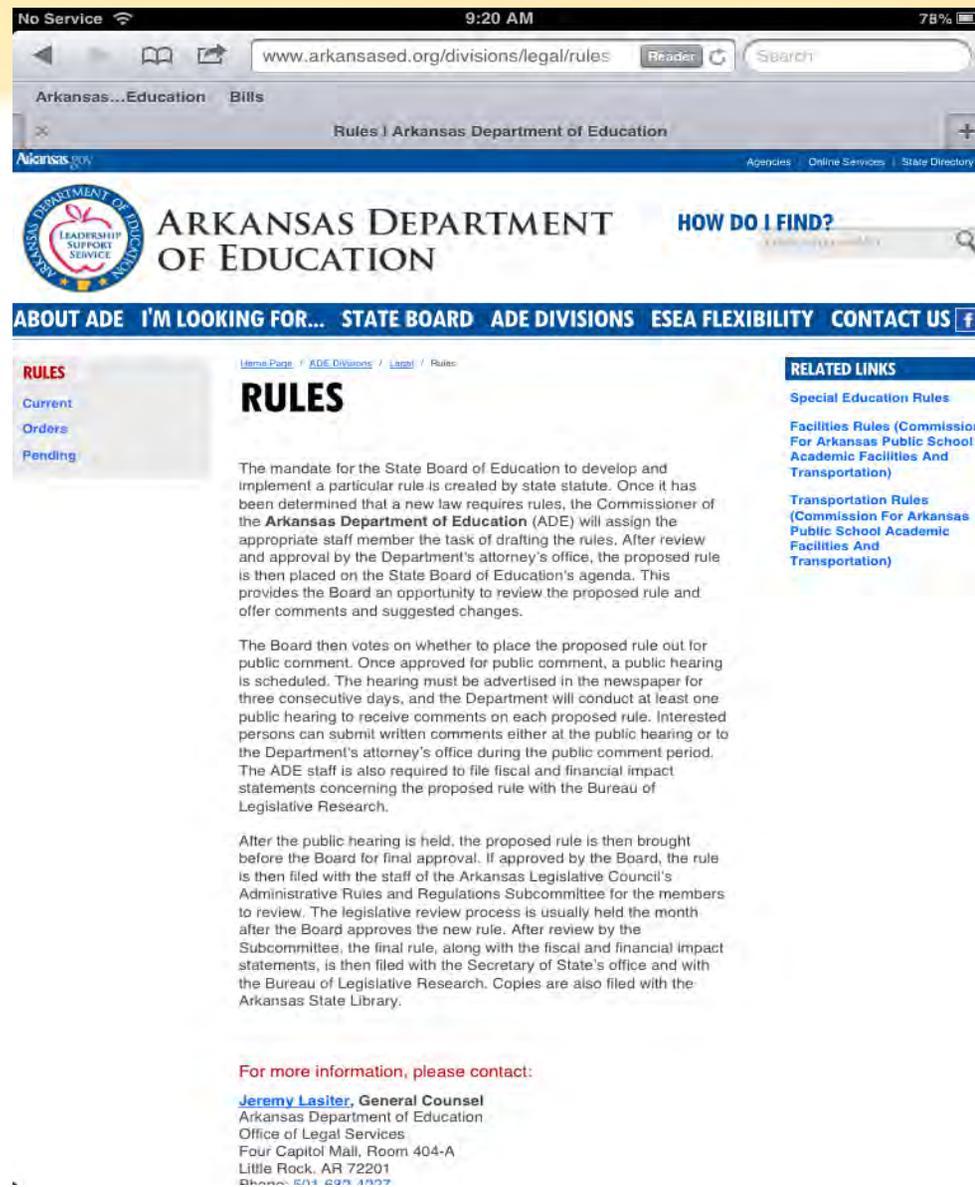
The screenshot shows the Arkansas State Legislature website in a Windows Internet Explorer browser window. The address bar displays the URL: <http://www.arkleg.state.ar.us/assembly/2009/2010F/Pages/Home.aspx>. The website header features the text "Arkansas State Legislature" and a search bar. Below the header, there are navigation tabs for "Assembly", "House", "Senate", "BLR", and "Audit". The main content area is titled "87th General Assembly" and "87th General Assembly - Fiscal Session 2010". It includes a section for "Today's Meetings" with a table of activities for Wednesday, July 14, 2010.

Wednesday, July 14 2010		
8:00 AM	Room 151	* DHS - DIVISION OF BEHAVIORAL HEALTH
9:30 AM	Room 171	ALC-ADMINISTRATIVE RULES & REGULATIONS

The right sidebar contains "Useful Links" with sections for "Research", "Documents - 2009 Regular Session", "Documents - 2010 Fiscal Session", and "Other Documents". The left sidebar lists various navigation options such as "Home", "Legislators", "Committees", "Acts", "Bills & Resolutions", "Calendars", "Arkansas Law", and "Interim Filings".

www.arkleg.state.ar.us

Ignorance of the law is no excuse.



The screenshot shows a mobile browser view of the Arkansas Department of Education website. The address bar displays www.arkansased.org/divisions/legal/rules. The page header includes the Arkansas Department of Education logo and the text "ARKANSAS DEPARTMENT OF EDUCATION". A navigation menu at the top lists "ABOUT ADE", "I'M LOOKING FOR...", "STATE BOARD", "ADE DIVISIONS", "ESEA FLEXIBILITY", and "CONTACT US". The main content area is titled "RULES" and contains the following text:

The mandate for the State Board of Education to develop and implement a particular rule is created by state statute. Once it has been determined that a new law requires rules, the Commissioner of the Arkansas Department of Education (ADE) will assign the appropriate staff member the task of drafting the rules. After review and approval by the Department's attorney's office, the proposed rule is then placed on the State Board of Education's agenda. This provides the Board an opportunity to review the proposed rule and offer comments and suggested changes.

The Board then votes on whether to place the proposed rule out for public comment. Once approved for public comment, a public hearing is scheduled. The hearing must be advertised in the newspaper for three consecutive days, and the Department will conduct at least one public hearing to receive comments on each proposed rule. Interested persons can submit written comments either at the public hearing or to the Department's attorney's office during the public comment period. The ADE staff is also required to file fiscal and financial impact statements concerning the proposed rule with the Bureau of Legislative Research.

After the public hearing is held, the proposed rule is then brought before the Board for final approval. If approved by the Board, the rule is then filed with the staff of the Arkansas Legislative Council's Administrative Rules and Regulations Subcommittee for the members to review. The legislative review process is usually held the month after the Board approves the new rule. After review by the Subcommittee, the final rule, along with the fiscal and financial impact statements, is then filed with the Secretary of State's office and with the Bureau of Legislative Research. Copies are also filed with the Arkansas State Library.

For more information, please contact:
Jeremy Lasiter, General Counsel
Arkansas Department of Education
Office of Legal Services
Four Capitol Mall, Room 404-A
Little Rock, AR 72201
Phone: 501.636.4827

On the right side of the page, there is a "RELATED LINKS" section with the following items:

- Special Education Rules
- Facilities Rules (Commission For Arkansas Public School Academic Facilities And Transportation)
- Transportation Rules (Commission For Arkansas Public School Academic Facilities And Transportation)

Laws to Obey

- Ethics

Ark. Code Ann. § 6-24-101 et seq.

- Finance & Budget

Ark. Code Ann. § 6-20-2201 et seq.

- Purchasing & Bidding

Ark. Code Ann. § 6-21-301 et seq.

- Annual Audits

Ark. Code Ann. §§ 6-1-101, 6-23-403

- Reports



Laws to Obey

- Annual Progress Report

Ark. Code Ann. § 6-23-107

Ark. Code Ann. § 6-23-303 (4)

- Facilities Inspection

Public Charter School Rules § 6.25

- Debt Review & Approval

Ark. Code Ann. § 6-23-401 (a)(5)

- Lease Review & Approval

Ark. Code Ann. § 6-23-302 (5)



Laws to Obey

“No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions ”

Ark. Code Ann. § 6-23-503 (b)(1)



Ask Not, Receive Not.

“ The application shall ... [l]ist the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted.”

Ark. Code Ann. § 6-23-302 (c)(4).



Ask Not, Receive Not.

Laws outside of Title 6 of the Arkansas Code



Laws that specify charter schools



Ethics laws regarding nepotism and self-dealing

Ask Not, Receive Not.

Ark. Code Ann. § 6-23-401 (b):

- Monitoring Compliance
- Special Education Programs
- Health & Safety Codes
- Criminal Background Checks

(Ark. Code Ann. § 6-17-411 & 414)

Ask Not, Receive Not.

Ark. Code Ann. § 6-23-401 (b):

- High School Graduation Requirements
- Public School Accountability

Ethical Prohibitions

Rules Governing Ethical Guidelines

4.01: “No board member, administrator, or employee of a public educational entity shall knowingly use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.”



School cannot contract with:

- School employees
- Administrators or their family members
- Board members or their family members

Ark. Code Ann. § 6-24-101 et seq.



Application Issues:

- Desegregation Analysis
- 501(c)(3) Status



Thank you for attending!

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